IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9158 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHREE HARI NARAYAN CORPN.

Versus

DEPUTY COLLECTOR, STAMP DUTY VALUATION AND OTHERS

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Appearance :
MR HASIT DILIP DAVE for Petitioner.
MR SHIVANG SHUKLA, AGP for Respondent Nos.1, 2.
MR ASPI M KAPADIA for Respondent No.3.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 29/10/2007

ORAL JUDGMENT

1. The petitioner having purchased the property consisting of land, building and plant and machinery at the auction held by respondent no.3, approached this Court under Article 226 of the Constitution to challenge order dated 18-2-2006 by which deficit stamp duty was assessed and demanded with penalty on the agreement to sell executed

between the parties. It was submitted that thereafter respondent no.3 has agreed to execute, in favour of the petitioner, final sale deed of the properties sold at the auction and final stamp duty was required to be assessed on that document after taking into consideration the duty leviable on the original agreement to sell, for which the levy of stamp duty was in dispute.

2. In the above facts, it was agreed and jointly submitted by learned counsel for the petitioner and learned AGP that, regardless of the impugned order dated 18-2-2006, the petitioner shall produce for registration final sale deed to be executed by respondent no.3 in favour of the petitioner for registration, as well as levy of stamp duty and proper stamp duty thereon shall be determined by the competent officer, after taking into consideration the stamp duty leviable on the original agreement to sell and applying the rates applicable to that agreement. It was also agreed that the competent officer shall consider value of the immovable property i.e. land and building and value of the plant and machinery separately. On that understanding, without prejudice to the rights and contentions of the parties, impugned order and notice dated 18-2-2006 is, by consent, quashed so as to facilitate fresh and final assessment of stamp duty and payment thereof by the petitioner at the earliest. It was also understood and agreed that upon payment of due stamp duty, the documents in question shall be immediately released to the petitioner.

3. Recording the above agreement and understanding, and by consent, the petition is partly allowed in the aforesaid terms and Rule is made absolute accordingly with no order as to costs.

(D.H.Waghela, J.)

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